

Chapter 15. Site Plan Procedures

40:15-1. Title

This Title shall be known and cited as the "Site Plan Procedures."

40:15-2. Purpose

The purpose of this Title shall be to establish the mandatory requirements that shall be met prior to site plan approval and those standards to be utilized in the site plan review process. This Title shall be applicable to the development of all lands within the City of Newark, New Jersey, in order to promote the public health, safety, and general welfare of the City.

40:15-3. Severability & Validity

If any clause, sentence, subparagraph, paragraph, section, or article of this Title hereinafter adopted or any part thereof is held invalid, inoperable, or unconstitutional by a court of competent jurisdiction, such determination, order or judgment shall not affect, impair, or invalidate the remaining portions of this Chapter, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, section, article, chapter, title or part thereof directly involved in the controversy in which the determination, order or judgment shall have been rendered.

40:15-4. Compliance with Applicable Requirements

The procedures for processing site plans shall comply with the requirements of the Land Use Procedures Ordinance of the City of Newark.

40:15-5. Applicability

40:15-5-1. Site Plan Review and Approval shall be required from the Central Planning Board for all Land Development involving:

1. An enlargement which increases the square footage/floor areas of an existing structure by one thousand (1,000) square feet or more.
2. Rehabilitation of any unoccupied residential structure of four (4) or more units where there is:
 - a. Changes to site plan, such as the enlargement or change in the location or configuration of any principal or accessory structure;
 - b. Increase in the number of dwelling units; or, Increase in number of bedrooms of any dwelling unit; Change to any distinctive architectural features of the façade.
3. The construction of new residential units:
 - a. One (1) and two (2) family attached and detached homes which total three (3) or more units within the same tax block.
 - b. Three (3) family detached units.
 - c. Three (3) or more attached units including row houses and/or town houses.
 - d. Multi-family buildings (four (4) or more families)
4. Rehabilitation of any industrial or warehousing structure that involves a change in that structure's use group as described in the International Construction Code, 2000 (ICC), or its equivalent replacement construction code put into use by the City of Newark.
5. The construction of new commercial, industrial or institutional structures with a gross floor area of one thousand (1,000) square feet or more.
6. The construction of structures other than buildings (e.g., water tower/chemical containers) of one thousand (1,000) square feet or more of grade level or ground floor area.
7. The development of an area of five thousand (5,000) square feet or more which is wholly devoted to playground, garden or park purposes.
8. Any vehicular parking or storage lot development consisting of five (5) or more spaces and/or the development of any vehicular parking area or paved area of one thousand (1,000) square feet or more.
9. Establishment of parking areas using "automotive lifts."
10. Establishment, enlargement, or conversion of an outdoor storage, salvage, junk or equipment yard.
11. Establishment of any institutional residential facility including but not limited to a hospital, prison, dormitory, shelter, or reformatory.

12. The rehabilitation of any structure where the principal use changes between any of the following categories: residential, commercial, institutional, warehousing, industrial, or automotive.

13. The rehabilitation of any structure where the number or type of automotive, commercial, industrial, warehousing, or institutional units or uses in that structure increases.

14. Approval of site plan shall be obtained prior to the commencement of any excavations, compactions, removal of soil, clearing of a site, construction or demolition, or placing of any fill on land contemplated for development. Site plan approval is a prerequisite to the issuance of a building permit. No certificate of occupancy shall be issued unless all construction and development conforms to the plans as approved by the reviewing board.

40:15-6. Exceptions

40:15-6-1. Site Plan Review shall not be required for:

1. An enlargement which increases the square footage/floor area of an existing structure by less than one thousand (1,000) square feet.

2. Rehabilitation of any unoccupied residential structure of fewer than four (4) units.

3. Rehabilitation of any unoccupied or occupied residential structure where there is no proposed:

- Changes to site plan, such as the enlargement or change in the location or configuration of any principal or accessory structure;
- Increase in the number of dwelling units;
- Increase in the number of bedrooms of any dwelling unit; or
- Change to any distinctive architectural features of the façade.

4. Rehabilitation of any commercial, industrial and institutional structures if the use group does not change, or if the numbers and/or types of units do not increase.

5. The creation of one (1) or two (2) new residential dwellings within an existing building currently used exclusively for retail, food service, office, or personal service establishments provided that the dwellings are on the building's second story or higher. Such dwelling creation/conversion shall not affect the existing zoning conformity status for its existing building, unless a building addition increases the degree of a nonconformity or creates new nonconformities, in which case site plan review as well as applicable variances shall be required.

6. The construction of new commercial, industrial or institutional structures with a gross floor area of less than one thousand (1,000) square feet.

7. The construction of structures other than buildings (e.g., water tower/chemical containers) of less than one thousand (1,000) square feet of grade level or ground floor area.

8. The development of an area of less than five thousand (5,000) square feet which is wholly devoted to playground, garden or park purposes.

9. Any vehicular parking or storage lot development consisting of fewer than five (5) spaces and/or development of any vehicular parking area less than one thousand (1,000) square feet.

10. Construction of a private accessory use such as a garage, toolhouse or greenhouse.

40:15-7. Minor Site Plan Procedure

40:15-7-1. Applications for site plan approval may be deemed to be minor site plans upon meeting all of the following criteria:

1. Where new construction is less than five thousand (5,000) square feet of floor area;

2. Where an addition to an existing building is less than one thousand (1,000) square feet of floor area;

3. Involves the disturbance to land, or added impervious coverage, of less than five thousand (5,000) square feet or twenty-five (25%) percent of the total area of the lot, whichever is less;

4. Includes only as-of-right permitted uses in the district, not conditionally permitted uses, and not uses for which "d" variances have previously been granted;

5. The proposed development conforms to all zoning requirements and requires no "d" or "c" variances, no waivers from Newark's site plan standards other than submission checklist waivers, no allowable deviation from any adopted redevelopment plan; and

6. Does not involve planned development as defined by the MLUL, any new street or extension of tract improvement which is to be prorated pursuant to NJSA 40:55D-42

40:15-7-2. All other site plan applications which are not deemed to be minor site plans shall be deemed to be major site plans.

40:15-7-3. Submission Requirements and Procedure

The minor site plan application submission requirements shall be the same as those required for major site plan review. However, in those circumstances where information required has no impact or is not relevant to the Board's determination of whether the site plan meets the requirements and standards of the Newark Zoning Ordinance and site plan standards, submission waivers may be requested by the applicant and shall be reasonably granted.

40:15-7-4. Effect of Approval

Approval of a minor site plan shall be deemed final approval provided that the Board may condition such approval on the provision of improvements as may be required. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision or site plan approval was granted, shall not be changed for a period of two (2) years after the date on which the resolution of approval is adopted provided that the approved minor subdivision shall have been duly recorded in accordance with Subsection 3 below.

40:15-7-5. Extensions of Minor Site Plan Approval

The Board shall grant an extension of minor site plan approval for a period determined by the Board, but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer

was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental agencies and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for an extension before: (a) what would be the expiration date of minor subdivision approval; or (b) the ninety-first (91) day after the developer receives the first legally required approval from other governmental entities, whichever occurs later.

40:15-8. Major Site Plan Procedure

40:15-8-1. General

The information hereunder is required as part of an application for site plan review. Failure to supply any of the required information and/or payment of fees shall constitute an incomplete submission and the application will not be acted upon by the Central Planning Board.

1. Site plans submitted shall conform to the zoning regulations as set forth in Title XL, Zoning, Revised General Ordinances of the City.
2. The applicant shall submit a completed City of Newark Central Planning Board/Zoning Board of Adjustment application with the payment of the required fee, as provided in Section 37:4-2.
3. Clear, color photos of site.
4. The applicant shall submit the required number of site plan drawings, each of which shall bear the impression seal and the inked signature of the licensed architect, engineer or land surveyor for the appropriate drawing as required by NJAC 13:40-1 and 13:40-2 and shall be in conformance with the preliminary and final site plan requirements detailed in Sections 40:15-8-2 and 40:15-8-3.
5. The following must be submitted at least two (2) days prior to the hearing:
 - a. Certified Mail Receipts for notice requirement
 - (1) Mounted on 8.5 x 11 inch bound paper
 - (2) Six to a page
 - (3) Arranged in the same order as indicated on the certified list of property owners (a properly certified

U.S. Postal Form 3877 will be accepted in lieu of the mounted receipts, provided that the addresses are arranged in the same order as indicated on the certified list)

- b. Affidavit of Proof of Service by individual who performed mailing certified.
- c. Affidavit of publication from newspaper.

6. For projects greater than five thousand (5,000) square feet, the applicant shall submit for the Final Site Plan six (6) copies of the Soil Erosion and Sedimentation Control Plan to the Central Permit Office, Department of Engineering for their review. The Department of Engineering shall inform the Secretary of the Central Planning Board of its action and/or comments and forward a copy of the plan after it has been approved.

40:15-8-2. Preliminary Major Site Plan

1. Submission Requirements

- a. Six (6) sets of site plan drawings which are submitted as a part of a preliminary site plan application shall include a cover sheet, a boundary and topography survey map and a site detail plan, the details of which shall comply with Section 40:15-8-6. Six (6) sets of the site plan are required unless stated otherwise in this Title. Additional sets for hearing will be required.
- b. The site plan drawings shall be prepared in the size of twenty-four (24) inches by thirty-six (36) inches or thirty (30) inches by forty-two (42) inches. The sites which cannot be accommodated within the thirty (30) inches by forty-two (42) inches, the plan may be drawn at a smaller scale; however, the selection of such scale shall require prior consultation and approval by the Board staff. Upon scheduling, fourteen (14) copies of 11 x 17 inch size sets will be required.
- c. The cover sheet and site plan detail sheet information may be combined on one (1) sheet in those cases where the required information can be effectively and clearly shown.
- d. All drawings shall be numbered in sequential fashion and properly identified.
- e. Digital Submission Requirement: All required documents shall also be submitted digitally on a

CD (compact disk) or USB drive, which shall be submitted with other required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).

f. The preliminary submission shall be made at least thirty (30) days prior to the regularly scheduled meeting of the Board.

2. Board Action

a. Except for applications governed by the time limits, the Board shall approve, conditionally approve or deny a preliminary major site plan which involves ten (10) acres of land or less, and ten (10) dwelling units or less, within forty-five (45) days after the submission of a complete application unless the applicant shall extend the period of time within which the Board may act.

b. The Board shall approve, conditionally approve or deny the preliminary major site plan of more than ten (10) acres or more than ten (10) dwelling units within ninety-five (95) days after the application is certified complete unless the applicant shall extend the period of time within which the Board may act.

c. Failure of the Board to act within the time prescribed shall constitute preliminary major site plan approval and a certificate of the Secretary of the Board as to the failure of the Board to act shall be issued on request of the applicant.

3. Substantial Modification

a. If any substantial modification is proposed or required after preliminary approval has been granted, an application for such modification shall be submitted and proceeded upon as in the case of the original application for development. The applicant may apply for modification approval either independently of or concurrently with application for final approval. In either case, notice pursuant to NJSA 40:55D-1 et seq. shall be required and shall state the nature of the proposed modification. A substantial modification shall mean one which: (a) increases the density of development; (b) increases the square footage of buildings; (c) proposes a different use; (d) would result in increased adverse impact upon properties in the immediate area with respect to factors such as, but not limited to, noise, glare and increased drainage runoff; or (e) materially

changes a required element of the development plan.

b. If the Central Planning Board or the Zoning Board of Adjustments required any substantial amendment in the layout or design of improvements proposed by the developer, that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Central Planning Board shall, if the proposed development complies with the ordinance and the Municipal Land Use Law, grant preliminary approval.

4. Effect of Preliminary Approval

a. Preliminary approval of a major site plan, except as provided in this Section, shall confer upon the applicant the following rights for a three (3) year period from the date on which the resolution granting preliminary approval is adopted.

i. That the general terms and conditions on which preliminary approval was granted shall not be changed, including, but not limited to: use requirements; layout and design standards for streets, curbs and sidewalks; lot sizes; yard dimensions and off-tract improvements; and in the case of a site plan, any requirements particular to the site plan approval pursuant to NJSA 40:55D-41, except that nothing herein shall be construed to prevent the City from modifying by ordinance such general terms and conditions of preliminary approval as related to the public health and safety.

ii. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be.

iii. That the applicant may apply for and the Board may grant extension on such preliminary approval of at least one (1) year, but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

iv. Whenever the Board grants an extension of preliminary approval pursuant to the previous paragraphs above and preliminary approval has expired before the date on which the extension was granted, the extension shall begin on what

would otherwise be the expiration date. The developer may apply for an extension either before or after what would otherwise be the expiration date.

v. The Board shall grant an extension of preliminary approval for a period determined by the Board, but not exceeding one (1) year from what would otherwise be the expiration date if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented directly or indirectly from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for the extension before: (a) what would otherwise be the expiration date of the preliminary approval; or (b) the ninety-first (91) day after the developer received the last legally required approval from other governmental entities, whichever is later. An extension granted pursuant to this Section shall not preclude the Board from granting an extension pursuant to the previous paragraphs above.

5. Simultaneous Preliminary and Final Site Plan Approval

a. Combined preliminary and final site plan approval may be granted provided all submission requirements for both applications are met. The time limit within which the Board shall act shall be the longest time period permitted for either of the two (2) approvals.

40:15-8-3. Final Major Site Plan Requirements

1. Submission Requirements

a. Final site plan drawings shall include any changes or modifications required by the Board while granting preliminary approval, and the additional information required hereunder pursuant to this Section and Section 40:15-8-2.

b. Six (6) sets of copies of the site plan duly revised shall be required for the final submission.

c. Digital Submission Requirement: All required documents shall also be submitted digitally on a CD (compact disk) or USB drive, which shall be submitted with other required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).

d. The final submission shall be made at least twenty (20) days prior to the regularly scheduled meeting of the Board.

2. Board Action

a. The Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions for preliminary approval.

2. Final approval shall be granted or denied within forty-five (45) days after submission of a complete application or within such further time as may be consented to by the applicant. Failure of the Board to act within the period prescribed shall constitute final approval and a certificate of the Secretary of the Central Planning Board as to the failure of the Board to act shall be issued on request of the applicant.

3. Whenever review or approval of the application by the County Planning Board is required by NJSA 40:27-6.1 or 40:27-6.6, the Board shall condition its approval on timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

4. Effect of Final Approval

a. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date on which the resolution of final approval is adopted. If the developer has followed the standards prescribed for final approval the Board may extend such period of protection for extensions of one (1) year but not to exceed three (3) extensions. Notwithstanding any other provisions of this Chapter, the granting of final approval terminates the time period of preliminary approval, for any Section of the development which is granted final approval.

b. Whenever the Board grants any extension of final approval pursuant to the preceding paragraph, and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before

or after what would otherwise be the expiration date.

c. The Board shall grant an extension of final approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for an extension before: (a) what would otherwise be the expiration date of final required approval; or (b) the ninety-first (91) day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this Section shall not preclude the Board from granting an extension pursuant to the preceding paragraphs.

5. Conditions of Approval

a. Conditions Binding. All conditions of preliminary and final approval shall be binding upon the applicant, all present and future owners, tenants, users and occupants of the property and their respective successors and assigns.

b. Failure to Maintain. The applicant and any successor in interest shall be responsible for installing and maintaining in good order and condition all required improvements and landscaping, unless such improvements and landscaping are to be installed by, and/or dedicated and maintained by the City, County or another party under the terms of approval granted by the Board. Such required improvements shall include, but not limited to, parking improvements, buffer zones, drainage facilities, exterior lighting, and landscaping. Failure of any responsible party to install and/or maintain the required improvements or landscaping shall constitute a violation of this Chapter and shall be subject to the enforcement procedures set forth herein.

40:15-8-4. Amended Site Plan Review

Applications for amended site plan review shall be governed by the same requirements as all other applications for site plan review.

40:15-8-5. Conditional Use Approval

1. Submission requirements for conditional use applications shall be the same as for a major site plan, except as set forth below.

a. The Board shall grant or deny an application for conditional use approval within ninety-five (95) days of submission of a complete application or within such further time as may be consented to by the applicant. If relief is requested pursuant to NJSA 40:55D-70d, the Board shall grant or deny within one hundred twenty (120) days of submission of a complete application or within such further time as consented by the applicant.

b. The Board shall approve or deny a conditional use application simultaneously with any accompanying site plan application. The longest time for action by the Board, whether it be for conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the applicant, notice of the hearing on the application shall include reference to the request for conditional use approval.

c. In approving a conditional use, a time limit of one (1) year from the date of the approval shall be set within which the owner shall secure a construction permit; otherwise the approval shall be null and void. The Board may, for good cause shown, extend the period for securing a construction permit for an additional period not exceeding six (6) months.

d. The conditions for approval shall be those specifically set forth above as well as the applicable area and yard requirements listed in each zoning district, the parking and buffer requirements set forth above and all other applicable design requirements provided in this Chapter.

40:15-8-6. Major Site Plan Drawing Requirements**1. Survey Map**

a. A survey of the site shall be performed by a New Jersey licensed surveyor pursuant to NJSA 45:8.

b. A title block pursuant to NJSA 13:40-2 in bottom right corner listing street addresses, block and lot numbers, and land area.

c. Bearings to the nearest ten seconds and distances to the nearest hundredth for all property

lines. It shall indicate true north or magnetic north.

d. The location of any existing monuments used for the survey. The areas of the site in square feet and acres to the nearest hundredth.

e. Existing site elevations and contour lines at two (2) foot intervals. If an assumed datum is used, its locations, should be clearly indicated.

f. The natural site characteristics such as streams, drainage ways, lakes, existing vegetation, marsh vegetation, etc.

g. Location, size and nature of existing buildings, structures, and impervious areas.

h. Locations and dimensions of existing rights of way/easements deed restrictions on survey or plan.

i. A legend indicating all symbols used on survey sheet.

j. Lot area in square feet.

k. Utility locations.

2. Site Plan Cover Sheet:

a. A detailed textual project description on the cover sheet of the plans to include, but not limited to:

Number of proposed uses and types of uses

Number of dwelling units, broken down by

Number of bedrooms

Hours of operation

Number of employees: total and by shift

Anticipated traffic volume

Hazardous material information (chemicals to be used/stores at site, and long-term effects on site from chemical usage/storage at site)

Anticipated noise impacts

Number of parking spaces

b. Statement of whether or not the site is located in a flood hazard area and if so how mitigated.

c. A listing of all variances, conditional use approvals and all other municipal, County, State, Federal and other (e.g., PVSC) permits required, applied for and/or received, as well as the date and requirements of such (if none required, state same), in chart form showing the requirement, project provisions and

whether variances or waivers are needed.

d. A locational key map at a scale of 1" = 1,000' with a north directional arrow, a graphic scale, the names of all streets and rights-of-way within a three thousand (3,000) foot radius of the site.

e. The street address and block and lot numbers of the site as shown on the current City tax map and the zoning designation of the property in the title block at the bottom right corner of the cover page.

f. Block Diagram of 200' radius labeled with zoning, buildings, footprints, land uses and fire hydrants shown.

3. Site Plan:

a. A title block pursuant to NJSA 13:40-1.

b. North Arrow.

c. Cross section of proposed site characteristics, retaining walls, and slopes on plans.

d. Proposed building locations, building dimensions, construction types, and building setbacks on plans.

e. Fencing, type and height, gates if proposed.

f. Retaining walls, type and height, if proposed.

g. Adjacent Streets shown on plans with direction arrows to show traffic flow.

h. Details of all paving, walls, curbs, handicapped features, etc. on plans.

i. Facilities for the storage and collection of refuse and recyclable materials for the site including details of walls or fences used for screening purposes as well as measures to assure protection from infestation of rats and vermin, etc. Provisions for collection of refuse shall also be provided.

4. Demolition Plan:

a. Proposed demolition activities (indicated in dashed lines) on a separate page on plans.

5. Landscaping Plan:

a. The locations, species name, common name,

mature height, planting height or caliper, and quantities of all proposed and existing plantings, maintenance statement and planting details. Existing live trees over three inches caliper shall be preserved.

6. Lighting Plan:

a. The location, type and height of all existing and proposed exterior on-site, pole and building mounted and adjacent right-of-way lighting, with isolux contours of illumination showing effects in buildings, sidewalks, parking areas, signs and any spillover effects, etc.

b. The construction details of all proposed fixtures shall be illustrated.

c. Lighting design shall conform to the current *Illuminating Engineering Society Lighting Handbook*.

7. Soil Erosion/Sediment Control Plan.

8. Parking Plan:

a. Location and dimensions of any vacated or intended to be vacated streets and nature of all easements and rights-of-way.

b. Names and width of all adjacent streets showing directions of vehicular traffic flow and all utilities within existing streets.

c. A layout of all on-site traffic and/or off-site parking arrangements, including circulation patterns for pedestrians and vehicular traffic and measurements for all driveways, travel ways and parking spaces.

d. Measurements for curb widths and driveway spacing.

e. Walkway depictions on plans with information about pavement types and curbing.

f. Vehicular circulation depictions for trucks.

g. On-site loading/drop-off/pick-up areas identified and with measurements.

h. Company vehicle/trucks, number owned by

- company if any.
- i. Provision for handicapped persons such as parking facilities accompanied with easy accessibility through sidewalks and ramps, housing units, etc., as required by the Barrier-Free Design Regulations (NJAC Title 17).
9. Storm Water/Utility Plan:
 - a. Storm drainage calculations (sanitary flow and run-off calculations) with details on retention facilities, elevations and flow direction.
 - b. Percolation test result for storm water drainage seepage pits or drywells.
 - c. Utility connections plan with diameters for all service and public lines (or for the reuse of existing buildings, a statement of plans signifying if existing utility connections are to be used otherwise a utility plan is required for new construction).
 - d. The location, type, size, inverts, and slope of all sanitary utilities such as grease traps, oil separators, clean outs, manholes, monitoring points, or any other appurtenances required.
 - e. Utility pole locations.
 - f. Mechanical and HVAC location and type.
 - g. Water meter setting diagrams.
 10. Building Elevations:
 - a. Finished floor elevations and the datum upon which these are based.
 - b. Indicating heights, colors, exterior materials and finishing details, including but not limited to walls, windows, and fenestrations.
 - c. Signage plan detailing type, illumination method, location, material, colors, measurements, installation method.
 11. Floor Plans:
 - a. Individual room measurements showing width and depth of each room in feet, building measurements showing width and depth of building, unit measurements, units labeled.
 - b. Room labels including number of bedrooms.
 - c. For residential projects, a table with number of units, bedroom count and square footage range.
 12. Detail sheets:
 - a. Drywell profiles, street tree plantings, curb cuts profiles, fence details, traffic details, sign details, retaining wall details, sidewalk and curb details, handicap ramp details, pavement restoration details.
- 40:15-8-7. Variances Without Site Plan Submission Requirements**
1. Variance applications that are not part of a subdivision or site plan application shall submit the following:
 - a. The applicant shall submit a completed City of Newark Central Planning Board/Zoning Board of Adjustment application with the payment of the required fee, as provided in Section 37:4-2.
 - b. Six (6) sets of site plan drawings which are submitted as a part of a preliminary site plan application shall include a cover sheet, a boundary and topography survey map and a site detail plan, the details of which shall comply with Section 40:15-239
 - c. The site plan drawings shall be prepared in the size of twenty-four (24) inches by thirty-six (36) inches or thirty (30) inches by forty-two (42) inches. The sites which cannot be accommodated within the thirty (30) inches by forty-two (42) inches, the plan may be drawn at a smaller scale; however, the selection of such scale shall require prior consultation and approval by the Zoning Board of Adjustment. Additional sets of plans for Board members shall be required upon scheduling of hearing.
 - d. The cover sheet and site plan detail sheet information may be combined on one (1) sheet in those cases where the required information can be effectively and clearly shown.
 - e. All drawings shall be numbered in sequential fashion and properly identified.
 - f. Digital Submission Requirement: All required documents shall also be submitted digitally

on a CD (compact disk) or USB drive, which shall be submitted with the rest of the required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).

g. The preliminary submission shall be made thirty (30) days prior to the regularly scheduled meeting of the Board.

2. Variances without site plan Drawing Requirements

a. Survey Map

i. A survey of the site shall be performed by a New Jersey licensed surveyor pursuant to NJSA 45:8.

ii. A title block pursuant to NJSA 13:40-2 in bottom right corner listing street addresses, block and lot numbers, and land area.

iii. Bearings to the nearest ten seconds and distances to the nearest hundredth for all property lines. It shall indicate true north or magnetic north.

iv. The location of any existing monuments used for the survey. The areas of the site in square feet and acres to the nearest hundredth.

v. Existing site elevations and contour lines at two (2) foot intervals. If an assumed datum is used, its locations, should be clearly indicated.

vi. The natural site characteristics such as streams, drainage ways, lakes, existing vegetation, marsh vegetation, etc.

vii. Location, size and nature of existing buildings, structures, and impervious areas.

viii. Locations and dimensions of existing rights of way/easements deed restrictions on survey or plan.

ix. A legend indicating all symbols used on survey sheet.

x. Lot area in square feet.

xi. Utility locations.

b. Site Plan

i. A detailed textual project description on the cover sheet of the plans to include, but not limited to:

- Number of proposed uses and types of uses
- Number of dwelling units, broken down by
- Number of bedrooms
- Hours of operation
- Number of employees: total and by shift
- Anticipated traffic volume
- Hazardous material information (chemicals to be used/stores at site, and long-term effects on site from chemical usage/storage at site)
- Anticipated noise impacts
- Number of parking spaces

ii. Statement of whether or not the site is located in a flood hazard area and if so how mitigated.

iii. A listing of all variances, conditional use approvals and all other municipal, County, State, Federal and other (e.g., PVSC) permits required, applied for and/ or received, as well as the date and requirements of such (if none required, state same), in chart form showing the requirement, project provisions and whether variances or waivers are needed.

iv. A locational key map at a scale of 1" = 1,000' with a north directional arrow, a graphic scale, the names of all streets and rights-of-way within a three thousand (3,000) foot radius of the site.

v. The street address and block and lot numbers of the site as shown on the current City tax map and the zoning designation of the property in the title block at the bottom right corner of the cover page.

vi. Block Diagram of 200' radius labeled with zoning, buildings, footprints, land uses and fire hydrants shown.

vii. A title block pursuant to NJSA 13:40-1.

viii. North Arrow.

ix. Cross section of proposed site characteristics, retaining walls, and slopes on plans.

- x. Proposed building locations, building dimensions, construction types, and building setbacks on plans.
 - xi. Fencing, type and height, gates if proposed.
 - xii. Retaining walls, type and height, if proposed.
 - xiii. Adjacent Streets shown on plans with direction arrows to show traffic flow.
 - xiv. Details of all paving, walls, curbs, handicapped features, etc. on plans.
 - xv. Facilities for the storage and collection of refuse and recyclable materials for the site including details of walls or fences used for screening purposes as well as measures to assure protection from infestation of rats and vermin, etc. Provisions for collection of refuse shall also be provided.
- c. Demolition Plan
- i. Proposed demolition activities (indicated in dashed lines) on a separate page on plans.
- d. Landscaping Plan
- i. The locations, species name, common name, mature height, planting height or caliper, and quantities of all proposed and existing plantings, maintenance statement and planting details. Existing live trees over three inches caliper shall be preserved.
- e. Lighting Plan
- i. The location, type and height of all existing and proposed exterior on-site, pole and building mounted and adjacent right-of-way lighting sidewalks, parking areas, signs and any spillover effects, etc.
 - ii. The construction details of all proposed fixtures shall be illustrated.
 - iii. Lighting design shall conform to the current *Illuminating Engineering Society Lighting Handbook*.
- f. Parking Plan
- i. Location and dimensions of any vacated or intended to be vacated streets and nature of all easements and rights-of-way.
- ii. Names and width of all adjacent streets showing directions of vehicular traffic flow and all utilities within existing streets.
 - iii. A layout of all on-site traffic and/or off-site parking arrangements, including circulation patterns for pedestrians and vehicular traffic and measurements for all driveways, travel ways and parking spaces.
 - iv. Measurements for curb widths and driveway spacing.
 - v. Walkway depictions on plans with information about pavement types and curbing.
 - vi. Vehicular circulation depictions for trucks.
 - vii. On-site loading/drop-off/pick-up areas identified and with measurements.
 - viii. Company vehicle/trucks, number owned by company if any.
 - ix. Provision for handicapped persons such as parking facilities accompanied with easy accessibility through sidewalks and ramps, housing units, etc., as required by the Barrier-Free Design Regulations
 - x. Water meter setting diagrams.
- g. Building Elevations:
- i. Finished floor elevations and the datum upon which these are based.
 - ii. Indicating heights, colors, exterior materials and finishing details, including but not limited to walls, windows, and fenestrations.
 - iii. Mechanical and HVAC location and type.
 - iv. Signage plan detailing type, illumination method, location, material, colors, measurements, installation method.
- h. Floor Plans
- i. Individual room measurements showing width and depth of each room in feet, building

measurements showing width and depth of building, unit measurements, units labeled.

ii. Room labels including number of bedrooms.

iii. For residential projects, a table with number of units, bedroom count and square footage range.

i. Detail sheets

i. Drywell profiles, street tree plantings, curb cuts profiles, fence details, sign details, retaining wall details, sidewalk and curb details, handicap ramp details, pavement restoration details.

40:15-8-8. Pre-Application Conference

The developer may participate in a pre-submission conference with the Newark Planning Office and the Engineering Department, either in person or by agent. The purpose of this conference shall be to evaluate the proposal for the type of review required and to ensure that the developer receives all proper information regarding the submission. No statement or representation by either the developer, the Newark Planning Office or the Engineering Department at this conference shall be binding or final. The Secretary may request that representatives of various City reviewing agencies or departments attend any pre-application meeting.

40:15-8-9. City Agencies & Department Review

The Secretary to the reviewing board shall forward the application for site plan approval and a copy of site plan drawings to the following City agencies and department heads for their review and written comments.

1. One (1) copy to the Central Planning Board staff.
2. Two (2) copies to the Department of Engineering.
3. One (1) copy to the Department of Water/Sewer Utilities.
4. One (1) copy to the Fire Department.
5. One (1) copy to the Police Department.

The Central Planning Board shall retain one (1) copy for its records.

The applicant is expected to comply with any

requirements and recommendations raised by any of the above City agencies.

40:15-8-10. Planned Unit Development & Public Areas

1. The planned unit development and public areas shall require that prior to approval of such development, the Central Planning Board shall find the following facts and conclusions:

- a. That departure by the proposed development from zoning regulations, otherwise applicable to the subject property, conforms to Title XL, Revised General Ordinances of the City of Newark;
- b. That the proposals for maintenance and conservation of the common open space are supported, and the amount, location and purpose of the common open space are adequate;
- c. That provisions through the physical design of the proposed development for public services control other vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
- d. That the proposed planned unit development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.

2. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

40:15-8-11. Ownership and Maintenance of Common Open Spaces in Planned Unit Development.

1. Public Dedication. Common open space which may be dedicated to the City shall be free and clear of all mortgages and encumbrances, and shall only be dedicated at the discretion of the City.
2. Private Dedication. Dedicated areas may be deeded free and clear of any encumbrances, to a permanent property owner's association, cooperative or condominium corporation for its use, control and management for common open space, recreational or other similar use, and providing appropriate restrictions

to assure the effectuation of the purpose of this Section and to provide for the maintenance and control of the area. The organization shall meet the following standards, to be written into the articles of incorporation and/or bylaws:

a. The developer shall provide for an organization for the ownership and maintenance of any open space for the benefit of owners or residents, if said open space is not dedicated to the City. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the City.

b. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the Director of Engineering or the Secretary of the Central Planning Board may serve written notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be cured within thirty-five (35) days thereof and shall state the date and place of a hearing thereon, which shall be held within fifteen (15) days of the notice. At such hearing the Central Planning Board may modify the terms of the original notice as to deficiencies and may give reasonable extension of time, not to exceed sixty-five (65) days within which the deficiencies shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within the thirty-five (35) days or any permitted extension thereof, the Board, in order to preserve the open space and maintain the same for a period of one (1) year, may enter upon and maintain such land. The entry and maintenance shall not vest in the public any right to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of the year, the Central Planning Board or the Director of Engineering shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon fifteen (15) days written notice to such organization and to the owners of

the development, to be held by the Central Planning Board at which hearing such organization and the owners of the development shall show cause why such maintenance by the City shall not, at the election of the City, continue for a succeeding year. If the City shall determine that such organization is ready and able to maintain the open space in reasonable condition, the City shall cease to maintain the open space at the end of the year. If the Director shall determine such organization is not ready and able to maintain the open space in a reasonable condition, the City may, in its discretion, continue to maintain the open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Central Planning Board shall constitute a final administrative decision, subject to judicial review.

c. The cost of such maintenance by the City shall be assessed by the Director of Engineering prorated against the properties within the development that have a right of enjoyment of the common open space, in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on these properties and assessed thereon and shall be enforced and collected with interest by the same officers and in the same manner as other taxes.

40:15-8-12. Reservation of Public Areas

The Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins, or public areas within the proposed development. Before approving a site plan, the Central Planning Board may further require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses. The Central Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of one (1) year after the approval of the final plat or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the City shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this Section shall not apply to streets and roads, flood control basins or public drainageways

necessitated by the land development and required for final approval.

40:15-8-13. Performance Guarantees & Improvement Costs

1. As a condition of final site plan approval, the Central Planning Board may require and shall accept in accordance with the standards adopted by this Chapter for the purpose of assuring the installation and maintenance of on-tract improvements:
 - a. The furnishing of a performance guarantee in favor of the City of Newark in an amount not to exceed one hundred twenty (120%) percent of the cost of installation for improvements, which cost shall be determined by the Director of the Department of Engineering according to the method set forth in NJSA 40:55D-53.4, which may be deemed necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyors, monuments as shown on the final plat and required by the "Map Filing Law," NJSA 46:23-9.9 et seq.; water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, and public improvements of open space. The Director of the Department of Engineering shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost list shall be appended to each performance guarantee posted by the obligor.
2. Provisions for a maintenance guarantee to be posted with the Municipal Council, City of Newark for a period not to exceed two (2) years after final acceptance of the improvements, in an amount not to exceed fifteen (15%) percent of the cost of the improvements. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the City of Newark for such utilities or improvements.
3. All improvements required by the Central Planning Board shall be subject to inspection and approval by the Director of the Department of Engineering who shall be notified by the developer at least twenty-four (24) hours prior to the start of construction of the

same. No underground installation shall be covered until inspected and approved.

4. The time allowed for installation of improvements for which the performance guarantee has been provided may be extended by the Municipal Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced to an amount not to exceed one-hundred and twenty (120%) percent of the cost of the installation, which cost shall be determined by the Director of the Department of Engineering according to the method of calculation set forth in NJSA 40:55D-53.4 as of the time of the passage of the resolution.
5. If the required improvements are not completed or corrected in accordance with the performance guarantee the obligor and surety, if any, shall be liable thereon to the City of Newark for the reasonable cost of the improvements not completed or corrected and the City of Newark may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law" NJSA 40A:11-1 et seq.
6. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Municipal Council in writing, by certified mail addressed in care of the City Clerk, that the Director of the Department of Engineering prepare, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee pursuant to Subsection A, above, of this Section, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Director of the Department of Engineering. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Director of the Department of Engineering shall inspect all improvements covered by obligor's request and file a detailed list and report, in writing, with the Municipal Council, and shall simultaneously send a copy thereof to the obligor

not later than forty-five (45) days after receipt of the obligor's request.

a. The list prepared by the Director of the Department of Engineering, shall state, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Director of the Department of Engineering shall identify each improvement determined to be completed and satisfactory together with a recommendation as to the amount of the reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee pursuant to Subsection A, above, of this Section.

7. The Municipal Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Director of the Department of Engineering, or reject any of all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee in accordance with Subsection A, above, of this Section. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Director of the Department of Engineering. Upon adoption of the resolution by the Municipal Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty (30%) percent of the amount of the total performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

a. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved improvement shall be reduced by the total amount for each such improvement, in

accordance with the itemized cost estimate prepared by the Director of the Department of Engineering, including any contingency factor applied to the cost of installation. If the sum of the approved improvements would exceed seventy (70%) percent of the total amount of the performance guarantee, then the municipality may retain thirty (30%) percent of the amount of the total performance guarantee to ensure completion and acceptability of all improvements, as provided above.

b. If the Director of the Department of Engineering fails to send or provide the list and report as requested by the obligor pursuant to Subsection D, above, of this Section within forty-five (45) days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Director of the Department of Engineering to provide the list and report within a stated period of time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

i. If the Municipal Council fails to approve or reject the improvements determined by the Director of the Department of Engineering to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, the approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

8. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure for notification, as set forth in this Section, shall be followed.

9. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Municipal Council or the Director of the Department of Engineering.

10. The obligor shall reimburse the City of Newark for all reasonable inspection fees paid to the Director of the Department of Engineering for the foregoing inspection of improvements; provided that the City of Newark may require of the developer a deposit for the inspection fees in the amount not to exceed, except for extraordinary circumstances, the greater of five hundred (\$500) dollars or five (5%) percent of the cost of the improvements, which cost shall be determined pursuant to NJSA 40:55D-53.4.

a. For those developments for which the inspection fees are less than ten thousand (\$10,000) dollars, fees may, at the option of the developer, be paid in two (2) installments. The initial amount deposited by the developer shall be fifty (50%) percent of the inspection fees. When the balance on deposit drops to ten (10%) percent of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Director of the Department of Engineering for inspection, the developer shall deposit the remaining fifty (50%) percent of the inspection fees.

b. For those developments for which the inspection fees are ten thousand (\$10,000) dollars or greater, fees may, at the option of the developer, be paid in four (4) installments. The initial amount deposited by the developer shall be twenty-five (25%) percent of the inspection fees. When the balance on the deposit drops to ten (10%) percent of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Director of the Department of Engineering for inspection, the developer shall make additional deposits of twenty-five (25%) of the inspection fees.

i. The Director of the Department of Engineering shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

11. In the event that final approval is by stages or sections of development pursuant to Subsection A of NJSA 40:55D-38, the provisions of this Section shall be applied by stage or section.

12. To the extent that any of the improvements have been dedicated to the City of Newark on the site plan, the Municipal Council shall be deemed, upon the release of any performance guarantee required pursuant to Subsection A of this Section, to accept

dedication for public use of streets or roads and any other improvements made thereon according to site plan approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Director of the Department of Engineering.

40:15-8-14. Commencement of Project

1. Notice Upon Commencement; Site Plan Copy at Construction Site

a. The Director of Engineering and the Secretary of the Central Planning Board shall be notified in writing seventy-two (72) hours before the commencement of construction of any development which has received final site plan approval. This notification shall be sent by the applicant.

b. Two copies of the approved final site plan shall remain at the construction site during the entire construction period until a certificate of occupancy has been issued and all requirements of the plan have been complied with.

40:15-8-15. Inspection

No person shall interfere with or prevent a Construction Code Official or Sub-code Official or the authorized person of the Central Planning Board from inspecting any site while engaged in the performance of his or her duties under this Title. Permission is granted to the Construction Code Official or his or her authorized designee to enter upon the site and property during regular work hours.

40:15-8-16. Enforcement

1. Pursuant to NJSA 40:55D-18, the Construction Code Official or Sub-code Official shall inspect each site for which a performance bond or certified check has been posted and the Construction Code Official shall certify to the developer whether installations and control measures are in compliance with the standards in general design principles prescribed in Chapter 16. In addition, an applicant is responsible for compliance with any specific requirements that have been stated as conditions of site plan approval. The Construction Code Official shall keep the Central Planning Board informed as to whether the construction is in compliance with the requirements of the site plan. If the Official shall, during the course of an inspection, find that a developer is not complying with the approved site plan, the Construction Code Official shall send a written report of his findings to the Central

Planning Board or the Zoning Board of Adjustments.

2. The Central Planning Board shall forward such notice to the applicant indicating in the notice the specific reasons for the noncompliance notice. Within seven (7) days of the notice, another inspection shall be made by the appropriate officials. If noncompliance is again found, the Director of Engineering or the Construction Code Official shall issue a stop-construction order for all activities on the site. The order shall be sent to the developer by certified mail. Such an order shall be issued whenever a project is not being conducted in accordance with (1) the approved final site plan modifications; (2) conditions stipulated at the time of final site plan approval; or (3) provisions provided by this Chapter. The notice sent to the applicant regarding a stop-work notification shall inform the developer that he/she has a right to contest the stop-work order by making a request to the Central Planning Board for a review of the site plan. The participants of such a review shall be the Director of the Department of Engineering and the Director of the Newark Planning Office. If after the review it is found that the applicant deviated from the final site plan approval specifications the Construction Code Official shall provide to the applicant the specifics of the noncompliance, necessary corrective measures, and a timetable for compliance of the same in writing.

3. Prior to the commencement of construction after a stop-work order, the applicant is required to submit signed and sealed amended plans (three (3) copies—one (1) copy to be submitted to the Director of Engineering, one (1) copy to be submitted to the Central Planning Board and one (1) copy to the City Planning Officer). After a review of these plans by the Engineering Department and the Planning Office if the plans are acceptable, then a notice informing the developer to continue construction will be issued forthwith.

40:15-8-17. Penalties

1. Any person who violates any provision of Chapter 16 shall upon conviction thereof, be punished by a fine not exceeding one thousand (\$1000.00) dollars.

2. For any and every violation of any other provision of this Chapter, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and the owner, general agent, contractor, architect, builder, or any other person who

commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall, for each and every violation, be punished by a fine not exceeding one thousand (\$1000.00) dollars.

3. A separate offense shall be deemed continued on each day during or on which a violation occurs or continues.

40:15-8-18. Completion

1. Filing Upon Completion

Upon completion of all work, a professional architect or professional engineer licensed in the State of New Jersey shall file with the Secretary of the Central Planning Board and the Director of Engineering, certification on a form obtained from the Department of Engineering, that all measures of the site plan have been completed in conformance with the approved plan and provisions of this Chapter.

40:15-9. Time Period for Action by the Zoning Board of Adjustment

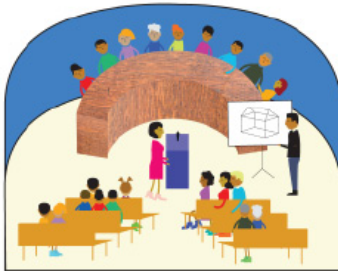
40:15-9-1. Variances

1. The Zoning Board of Adjustment shall render its decision not later than one hundred twenty (120) days after the date: (a) an appeal is taken from the decision of an administrative officer; or (b) the submission of a complete application for a variance to the Board pursuant to the provisions of NJSA 40:55D-72(b).

2. Whenever an application for development requests relief pursuant to subdivision or site plan approval associated with a use variance, the Zoning Board of Adjustment shall grant or deny approval of the application within one hundred and twenty (120) days after submission by a developer of a complete application to the Zoning Board of Adjustment or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the one hundred and twenty (120) day provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this Chapter. Failure of the Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Secretary of the Zoning Board of Adjustment as to the failure of the Board to act shall be issued on

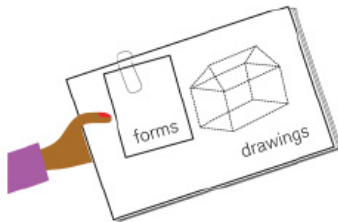
Sample Public Notice Sign

Notice of Public Hearing on Proposed Development



This public hearing will be conducted by the Central Planning Board to hear support for and objections to this proposed development.

DATE **XX/XX/XX**
TIME **6:30 PM**
LOCATION **Newark City Hall Council Chambers**
920 Broad Street, Floor 2
Newark, NJ 07102



APPLICANT NAME / ADDRESS / PHONE
OWNER NAME / ADDRESS / PHONE
PROJECT ADDRESS
APPLICATION NUMBER
DESCRIPTION OF PROPOSED DEVELOPMENT

**Documents relating to this application
may be inspected by the public at**
Newark Planning Office
Newark City Hall Room 112
920 Broad Street, Newark, NJ 07102
(973) 733-6333
Office hours: 8:30 am-4:30 pm

MINIMUM 3 FEET

MINIMUM 3 FEET

request of the applicant.

40:15-9-2. Direction for the Issuance of a Permit

The Zoning Board of Adjustment shall render its decision not later than one hundred twenty (120) days after the date of submission of a complete application for direction for issuance of a permit. Failure of the Board to render a decision within such one hundred twenty (120) day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

40:15-9-3. Inquiries

The Zoning Board of Adjustment shall respond to inquiries submitted in writing as to whether a proposed land use is permissible under the Zoning Ordinance or Official Map within forty-five (45) days after the next meeting following receipt of the request or within such additional time as may be consented to by the inquirer.

40:15-10. Time Period for Action for Ancillary Powers of the Central Planning Board

Whenever the Central Planning Board is called upon to exercise its ancillary powers as set forth in Subsection 37:1-6l, the Board shall grant or deny approval of the application within one hundred twenty (120) days after submission by the developer of a complete application or within such further time as may be consented to by the applicant. In the event the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying any subsequent approval shall be as otherwise provided in NJSA 40:55D-1 et seq.

40:15-11. Provisions Applicable to Both the Central Planning Board & Zoning Board of Adjustment

40:15-11-1. Meetings

1. Meetings of both the Central Planning Board and Zoning Board of Adjustment shall be held as scheduled unless canceled for lack of applications for development to process.

2. Special meetings may be provided for at the call of the Chairperson and shall be held on notice to its members and the public in accordance with all applicable legal requirements.

3. No action shall be taken at any meeting without a

quorum being present.

4. All actions shall be taken by majority vote of the members present at the meeting except as otherwise required by any provision of NJSA 40:55D-1 et seq. Failure of a motion to receive the numbers of votes required to approve an application for development shall be deemed an action denying the application. A member of the Board who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted, notwithstanding the absence from one (1) or more of the meetings; provided, however, that a transcript or recording of all of the hearings from which he or she was absent exists, and provided, further, that such Board member certifies in writing to the Board that he or she has read such transcript or listened to such recording.

5. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Act.

40:15-11-2. Minutes

Minutes of every regular or special meeting of the Central Planning Board or the Zoning Board of Adjustment shall be kept and shall include the names of the persons appearing and addressing the Boards and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes of each Board shall thereafter be made available for public inspection during normal business hours at the office of the Secretary of the Board. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes.

40:15-11-3. Public Hearings

1. Rules. The Central Planning Board and the Zoning Board of Adjustment shall make rules governing the conduct of hearings, which rules shall not be inconsistent with the provisions of NJSA 40:55D-1 et seq. or of this Chapter.

2. Agendas. The meeting agendas for both the Zoning Board of Adjustment and the Central Planning Board shall be posted online by the Newark Planning Office.

3. Maps. Any maps and documents for which approval

is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the office of the Board Secretary. The applicant may produce other documents, records or testimony at the hearing to substantiate or clarify the previously filed maps and documents.

4. Oaths. The officer presiding at the hearing or such other person as may be designated shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law (C. 2A:67A-1 et seq.) shall apply.

5. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

6. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

7. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his or her expense.

40:15-11-4. Notice Requirements for Hearing

Public notice of a hearing on an application for development or relief per NJSA 40:55D-1 et seq. shall be given for final major site plans, minor site plans, final major subdivisions, and variances. Notice pursuant to this Section shall be given by the applicant at least ten (10) days prior to the date of the hearing. The Secretary of the Board or the applicant shall give notice thereof at the applicant's expense as follows:

1. Public notice shall be given by publication in the

official newspaper of the municipality.

2. Public notice shall be given by a sign(s) posted on the proposed development site. The sign shall be the responsibility of the applicant and posted subject to the following conditions:

a. The sign(s) shall be posted no less than ten (10) calendar days prior to the date of the public hearing and shall not be removed by the applicant until the hearing is closed;

b. The sign(s) shall be firmly secured to the ground or structure to prevent vandalism and shall be along the most visible portion of street frontage. The sign(s) shall be erected in a manner so as to be visible to traffic moving in both directions. Signs must be posted within five (5) to 15 feet of the property line. If there is more than one street frontage of the parcel, one sign for each street frontage shall be posted;

c. Sign Design and Content. The sign(s) shall comply with the following sign design requirements:

i. The composition of the sign(s) shall be of a durable material with a dimension of at least three (3) feet by three (3) feet painted white with black lettering having a minimum height of three (3) inches for the title;

ii. The words "Notice of Public Hearing" shall be a minimum of three (3) inches in size. Sign content should match the example to the right.

iii. The sign(s) shall advertise the date, time, and location of the public hearing, as well as name, address, and a contact phone number for Applicant and Owner, with at minimum (two) 2 inch high lettering;

d. The applicant is responsible for submitting a signed affidavit along with two (2) photos of the posted sign(s) to the appropriate approval board secretary. One photo shall show the contents of the sign; the second photo shall show the sign posted in front of the property. An applicant who fails to display the sign or prove that the sign was displayed shall result in a delay in application processing.

e. Applicant shall complete the following affidavit and mail or deliver it to: Newark Planning Office, 920 Broad Street, Room 112, Newark, New Jersey, no later than 5 days after the sign posting. The signed

affadavit shall contain the following elements:

Application No.: _____

Filed on: _____

I, __ (applicant) _ hearby certify that on __ (date of sign installation) _ I installed a notice of public hearing sign at the property known as _____ for which the major development application number _____ is being considered by the __ (approval entity) _ on __ (date of hearing) __.

I also hereby agree to meet the specifications and general requirements of the sign content as stated in Section 40:15-11-4(2)(c) of the Newark Zoning and Land Use Regulations.

Attached to this affadavit as Exhibit "C" is the photo(s) of the sign(s) as it was installed on the property and agree to the responsibility of maintaining the integrity and accuracy of the sign.

I also hereby agree to maintain the sign in place for a period of 10 days before each public hearing and for its subsequent removal thereafter.

Date: _____

Applicant's/Representative's

Signature: _____

Phone number: _____

3. Notice shall be given to the owners of all real property as shown on the current tax duplicate located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which applicant's land is located; provided that this requirement shall be deemed satisfied by notice to the: (a) condominium association, in the case of any unit owner whose unit has a unit above or below it; or (b) a horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Such notice shall be given by: (a) serving a copy thereof on the owner as shown on the current tax duplicate and most recent records of the tax surveyor in the Office of Assessment, or on his or her agent in charge of the property; or (b) mailing a copy thereof by certified mail to the property owner at his or her address as shown on the current tax duplicate and Tax Surveyor's records. Notice to a partnership owner

may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the hearing may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

4. Notice shall be given by personal service or certified mail to the Municipal Clerk of any adjoining municipality when the property involved is located within two hundred (200) feet of said adjoining municipality.

5. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing County road or proposed road shown on the official County map or on the County Master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary.

6. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

7. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Central Planning Board or Zoning Board of Adjustment pursuant to NJSA 40:55D-10(b).

8. All notices hereinabove specified in this Section shall be given at least ten (10) days prior to the date fixed for hearing and the person giving notice shall file an affidavit of proof of service with the Board holding the hearing on the application for development.

9. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of NJSA 40:55D-14.

10. All notices required to be given pursuant to the terms of this Chapter shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the City Tax Assessor's Office and the location and times at which any maps and documents for which approval is sought are available as required by law.

11. Notice of hearing on applications for approval of a major subdivision or a site plan not defined as a minor site plan in this Chapter requiring public notice pursuant to this Article shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which as registered with the municipality and which has registered with the municipality in accordance with NJSA 40:55D-12.1, by:

(a) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility; or

(b) by mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

12. The applicant shall file an affidavit of proof of service and affidavit of publication with the Board holding the hearing, at least two (2) days prior to the first scheduled hearing. In addition, the applicant shall submit the original white slips bearing the postmark from the post office from where notices were mailed.

13. It is the policy of both the Zoning Board of Adjustments and the Central Planning Board that no notices shall be reserved if any application is adjourned at the applicant's request. Thus, the adjacent property owners and every other body requiring a notice shall be notified of the adjourned hearing.

40:15-11-5. List of Property Owners Furnished

Pursuant to the provisions of NJSA 40:55D-12(c), the municipal Tax Assessor shall within seven (7) days after receipt of a written request therefor and upon receipt of payment of a fee of twenty (\$20.00) dollars, make and certify a list from the current tax duplicate of names and addresses of owners to whom notice must

be given pursuant to Subsection 37:3-6b. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner, to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding.

40:15-11-6. Registration by Public Utilities

1. Every public utility, cable television company and local utility which holds a right-of-way easement in the City and which is interested in receiving notice pursuant to this Chapter, may register with the City Clerk to receive such notice. The registration shall remain in effect until revoked by the public utility, cable television company, or local utility or by its successor in interest.

2. A registration fee of ten (\$10.00) dollars is required pursuant to NJSA 40:55D-12.1 for any public utility, cable television company or local utility, which registers to receive notice pursuant to this Section.

40:15-11-7. Decisions.

1. The Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The Board shall provide the findings and conclusions through:

a. A resolution adopted at a meeting held within the time period in NJSA 40:55D-1 et seq. for action by the Board on the application for development; or

b. A memorializing resolution adopted pursuant to NJSA 40:55D-10(g) at a meeting held not later than forty-five (45) days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution.

2. A copy of the decision shall be filed in the office of the Secretary of the Central Planning Board or the Zoning Board of Adjustment, as the case may be, where it shall be made available for public inspection during reasonable hours.

3. A brief notice of the decision shall be published in the official newspaper of the municipality. Such

publication shall be arranged by the applicant. The notice shall be sent to the newspaper for publication within ten (10) days of the date of any such decision.

40:15-11-8. Payment of Taxes

Pursuant to the provisions of NJSA 40:55D-39 and NJSA 40:55D-65, every application for development submitted to the Central Planning Board or the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on the property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

40:15-11-9. Conditional Approval

1. In the event that an applicant submits an application proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any State agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by a State agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the Board shall process such application in accordance with this Chapter, and if such application complies with all City regulations, the Board shall approve such application conditioned on removal of such legal barrier to development.

2. In the event that development proposed by an application requires an approval by a governmental agency other than the Board, the Board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency. The Board shall make a decision on any application within the time period provided in this Chapter or within an extension of such period as has been agreed to by the applicant, unless the Board is prevented or relieved from so acting by the operation of law.

40:15-11-10. Time Extensions

The Board and an applicant may mutually agree to extend the time limit specified for action. Such extension shall be made in writing or verbally at a public meeting of the Board.

40:15-11-11. Expiration of Variance

Any variance from the terms of this Chapter hereafter granted by either Board permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by the variance or unless such permitted use has actually been commenced within one (1) year from the date of publication of the notice of the decision of the Board granting the variance or unless specifically approved for a longer period of time as permitted by statute, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing of appeal from the decision of the Board to a court of competent jurisdiction, until the termination in any manner of such appeal or processing.

40:15-11-12. Application by Corporation or Partnership

1. Disclosure by Corporate or Partnership Applicant. A corporation or partnership applying to the Central Planning Board or the Zoning Board of Adjustment shall list the names and addresses of all stockholders or individual partners owning at least ten (10%) percent of its stock of any class or at least ten (10%) percent of the interest in the partnership, as the case may be.

2. Disclosure by Corporation or Partnership Owning Ten (10%) Percent or More of Applicant. If a corporation or partnership owns ten (10%) percent or more of the stock of a corporation or interest of ten (10%) percent or greater in a partnership, either of which is subject to disclosure pursuant to the above paragraph, that corporation or partnership shall list the names and addresses of its stockholders holding ten (10%) percent or more of its stock or interest of ten (10%) percent or greater in the partnership, as the case may be; and this requirement shall be followed by every corporate stockholder or partner in said partnership until the names and addresses of the non-corporate stockholders and individual partners exceeding ten (10%) ownership criterion set forth in this Section have been listed.

3. The Board shall not approve the application of any corporation or partnership which does not comply with this Section.

4. Any corporation or partnership which conceals the

names of the stockholders owning ten (10%) percent or more of its stock or of the individual partners owning an interest of ten (10%) percent or greater in the partnership, as the case may be, shall be subject to a fine of one thousand (\$1,000.00) dollars to ten thousand (\$10,000.00) dollars, which shall be recovered in the name of the City of Newark in any court of record in the State in a summary manner pursuant to the Penalty Enforcement Law (NJSA 2A:58-1 et seq.).

40:15-12. Application for Development Procedures

40:15-12-1. Application: Procedures for Filing

1. The applicant shall obtain all necessary forms from the Newark Planning Office, which shall inform the applicant of the procedures to be followed in filing an application for development and advise the applicant which Board has jurisdiction over the application. The applicant shall provide such information as the Zoning Officer deems necessary in order to render a determination as to the type of application required. At the time of filing the application, but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file all sketch plats, plot plans, maps or other papers required by virtue of any provision of this Section or any rule of the Central Planning Board or the Zoning Board of Adjustment.
2. An application for development shall be complete for purposes of commencing the applicable time period for action by the Central Planning Board or the Zoning Board of Adjustment when so certified by the Board or its authorized committee or designee. In the event that the agency, committee or designee does not certify the application to be complete within forty-five (45) days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five (45) day period for purposes of commencing the applicable time period unless: (a) the application lacks information indicated on a checklist adopted by ordinance and provided to the applicant; and (b) the Board or its authorized committee or designee has notified the applicant in writing, of the deficiencies in the application within forty-five (45) days of submission of the application.
3. The applicant may request that one (1) or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within forty-five (45) days. Nothing

herein shall be construed as diminishing the applicant's obligation to prove in the application process that he or she is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Board.

4. All applicants for permits pertaining to designated historic sites or improvements in designated historic districts shall be referred to the Newark Landmarks and Historic Preservation Commission ("Commission") for a written report and decision on the application of the provisions in Chapter 10.

40:15-12-2. Fees

1. Non-refundable application fees.
 - a. There shall be a non-refundable fee for applications to the Newark Central Planning Board, Zoning Board of Adjustment, as provided by law and established herein. The fees provided for shall be non-refundable and are for purposes of offsetting the administrative and clerical costs of running these Boards.
 - b. Applicable Fees. Every application for review or hearing before the Zoning Board of Adjustment, or the Central Planning Board shall be initially accompanied by a check for \$150.00. Balance due will be determined upon City Planning Staff's review in accordance with the amount(s) as provided in Fee Table I and based upon the initial submission package. If future submissions result in additional fees, such will be calculated at that time. This balance will be due within 30 days of issuance of the first review checklist. If not received within 30 days, review will cease until payment is submitted.
 - c. Copies of resolutions rendered by either the Zoning Board of Adjustment or the Central Planning Board shall be available to any person requesting them at their sole cost and expense. Any applicant shall receive a copy of the decision rendered at no additional cost. Minutes of either the Board of Adjustment or the

Planning Board shall also be available on request to any person or applicant at their sole cost and expense. Amounts charged shall be as provided for in the City's ordinance regulating photocopy and documents fees.

d. Performance guarantees may be required by the Zoning Board of Adjustment or the Central Planning Board pursuant to N.J.S.A. 40:55D-53 separate from application fees.

2. Schedule of Fees

a. Application fees

Application Type	Application Fees
Minor Site Plan	\$750
Preliminary Major Site Plan: Residential, 3–10 dwellings	\$750
Preliminary Major Site Plan: Residential, 11–50 dwellings	\$1000
Preliminary Major Site Plan: Residential, 51–100 dwellings	\$1500
Preliminary Major Site Plan: Residential, over 100 dwellings	\$2500
Preliminary Major Site Plan: Commercial, less than 5000 square feet	\$750
Preliminary Major Site Plan: Commercial & Industrial, 5000-20,000 square feet	\$1500
Preliminary Major Site Plan: Commercial & Industrial, 20,001–100,000 square feet	\$2750
Preliminary Major Site Plan: Commercial & Industrial, more than 100,000 square feet	\$5000
Final Major Site Plan: Residential, 3–10 dwellings	\$375
Final Major Site Plan: Residential, 11–50 dwellings	\$500
Final Major Site Plan: Residential, 51–100 dwellings	\$750
Final Major Site Plan: Residential, over 100 dwellings	\$1250
Final Major Site Plan: Commercial, less than 5000 square feet	\$375

Application Type	Application Fees
Final Major Site Plan: Commercial & Industrial, 5000-20,000 square feet	\$750
Final Major Site Plan: Commercial & Industrial, 20,001–100,000 square feet	\$1375
Final Major Site Plan: Commercial & Industrial, more than 100,000 square feet	\$2500
Minor Subdivision application, 2 acres or less	\$900
Minor Subdivision application, over 2 acres	\$1800
Preliminary Major Subdivision	\$2300
Final Major Subdivision	\$1150
Conditional Use	\$500 in addition to any other fees
“a” & “b” Appeals and Interpretations as per NJSA 40:55D-70 a & b	\$150
“c” Variance as per NJSA 40:55D-70(c) & deviation from redevelopment plan	\$300 per “c” variance
“d” Variance as per NJSA 40:55D-70 (d)	\$2000 per “d” variance
Extension of Variance Approval	\$300
Special Meeting of Central Planning Board or Zoning Board of Adjustment	\$3000

b. Certified list of names and addresses of owners of property located within two hundred (200) feet of property which is the subject of a hearing: \$20.

c. Certificate certifying approval of a subdivision application: \$10.

3. An applicant shall pay any and all costs of the publication of notice of a hearing on an application before the Zoning Board of Adjustment or the Central Planning Board and of a verbatim recording of the proceedings. Any interested party who requests a transcript or duplicate recording of proceedings before

the Board shall pay the cost thereof except that the Zoning Board of Adjustment and the Central Planning Board shall provide to any property owner or tenant within two hundred (200) feet in all directions of the property which is the subject of such proceedings any transcript necessary for appeal to the Municipal Council pursuant to NJSA 40:55D-17 for the cost of transcription.

40:15-13. Appeals

40:15-13-1. Appeals to Zoning Board of Adjustment

1. An appeal to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the Zoning Ordinance or Official Map.
2. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal.
3. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
4. The procedure for the hearing of an appeal shall be the same as a development application.
5. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from, and to that end shall have all the powers of the Zoning Official from whom the appeal is taken.
6. An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the officer from whose action the appeal is taken certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is

taken and on due cause shown.

7. The Zoning Board of Adjustment shall render a decision not later than one hundred twenty (120) days after the date: (a) an appeal is taken from the decision of an administrative officer; or (b) the submission of a complete application for development to the Zoning Board of Adjustment. Failure of the Board to render a decision within such one hundred and twenty (120) day period or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant.

8. A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to an administrative officer. Such appeal shall be made and decided in accordance with the provisions of NJSA 40:55D-72 et seq.

40:15-14. Miscellaneous Provisions

40:15-14-1. Definitions

Whenever a term is used in this Title which is defined in NJSA 40:55D-1 et seq., such term is intended to have the meaning set forth in the definition of such term found in the statute, unless a contrary intention is clearly expressed from the context of this Title.

40:15-14-2. Ordinances Continued

The substantive provisions of the existing Newark Zoning & Land Use Regulations and the development regulations set forth therein shall continue in full force and effect and shall be read in pari materia with this Title.

40:15-14-3. Short Title

This Title shall be known and may be cited as "Newark Zoning & Land Use Regulations."

40:15-14-4. Copy to be Filed With County Planning Board

Immediately upon adoption of this Title the Municipal Clerk shall file a copy of this Title with the County Planning Board as required by law. The Clerk shall also file with the County Planning Board copies of all other ordinances of the municipality relating to land use, such as the subdivision, zoning and site plan review ordinances.